

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

Original Application No. 527 of 2000

Dated this 14th the Dec day of 2001

CORAM : Hon'ble Shri S.L. Jain, Member (J)

1. Shridhar Pundalik Salgaonkar
402, Kankai Kripa Chikwadi,
Shimpoli, Borivali (W), Mumbai-400 092 ... Applicant.
(By Advocate Shri S.P. Inamdar)
1. Union of India, through
The Secretary,
Ministry of Railway,
Railway Board,
New Delhi-110 001.
2. The Divisional Railway Manager,
Western Railway,
Bombay Central Terminus.
Mumbai-400 008.
3. The General Manager,
Western Railway,
Churchagate, Mumbai-400 020, ... Respondents.
(By Advocate Shri V.S. Masurkar)

O R D E R

PER : Hon'ble Shri S.L. Jain, Member (J)

The applicant has impugned the order dated 16.12.1998 passed by General Manager Western Railway Annexure A-1 (OA Page 15) communicated to the applicant vide letter dated 1.12.1999 by Officer on special duty to Minister of state for Railways parliamentary affairs and planning and programme implementation Government of India, New Delhi Annexure -1(OA Page 14)

The grievence of the applicant is based on Annexure Ex A-2 memo No.E(P & A)/II/83/RS-10(N) dated 25.11.1992 along with Annexure Ex.A/3 memo No.DRMs.DCT/BRC/RTM/KTT/All/JP/RJT/BVP dated 11.8.1994.

J.S.M. ...2/-

The applicant claims that he was compelled to work as power controller from 18.8.1981 to 12.1.1994 at Head Quarter in spite of the instructions Ex A-2 and Ex A/3 dated 25.11.1992 and 11.8.1994 respectively, resulting loss in his pay and pensionary benefits. He is superannuated on 31.3.1994.

Annexture Ex A/2 dated 25.11.1992 para 3.5 and Annexture Ex. A-3 para 3 is as under:-

"No personal shall, however, be posted as Power controllers. Crew controllers during the last two years of his service and during this period, he would be compulsorily posted as loco Insp. even by posting loco Insp. as Power controller. In case this is not arranged. The for posting in Loco Insp. Category when just one and a half years of service is left and it would be obligatory on the competent authority to do so."

"It should further be ensured that the provisions contained in Board's letter No.D(P&A)II/83/Rs-10(iv) dt. 15.11.1992, circulated vide Ps.No.185/1992 dt.11.11.1992 are not infringed, specifically, it should be ensured that serving employees working as Power controllers crew controllers should be deployed as Loco Inspector during the last two years of their service, as mentioned in the above referred letter.

Regarding Annexture Ex A-3 dated 11.8.1994 it is worth mentioning that the said memo was issued on 11.8.1994 after the superannuation of the applicant on 31.3.1994. Hence he is not entitled to seek any

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assistance from the said memo.

Perusal of Annexure Ex A-2 makes it clear that though direction for not posting as Power Controller during the last two years of the service of an employee did exist but the right enforceable by an employee is only when 1 1/2 years of service is left and it is reported to DRM/Head of Department. Had there been a case of absolute right within last two years of service the latter part of para 3.5 was not necessary to be inserted.

The respondentsⁿ have brought on record that the applicant submitted his representation on 6.1.1994 and asⁿ he was posted as Loco Inspector with effect from 13.1.1994, as such no delay on their part has occasioned. I am of the considered opinion that the delay if any has occasioned in his posting as Loco Inspector is not on account of any negligence on the part of the respondent but is on the part of the applicant who did not assert his rights well in time. The respondents took only six days in settling the grievance of the applicant which can not be said to be a delayed consideration in any circumstances.

The learned counsel for the applicant relied on 2000(1) ATJ 474. Shri Sibomdra Paul Vs Union of India decided by CAT. Culcutta which deals with a case of medical decategoriazation relating to running staff of Railway who are appointed to ordinary post and their entitlement. The present case is not such one. As such the applicant is not entitled to any assistance from the

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said authority

In the result there is no merit in the OA. It is liable to be dismissed and is dismissed accordingly with no order as to costs.

P.L. Jain 14/12/07
(S.L.Jain)

M(J)